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Subcommittee on Highways and Transit
United States House of Representatives**

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Motor Carrier Safety: Oversight of High-Risk Trucking Companies

**Statement of
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Chairman DeFazio, Ranking Member Duncan, and Members of the Subcommittee:

Thank you for the opportunity to testify today on the Federal Motor Carrier Safety Administration's (FMCSA) actions to improve oversight of high-risk motor carriers. As you know, we have testified many times on motor carrier safety issues, and we appreciate the continued interest and strong support that Congress has shown in improving motor carrier safety.

Crashes causing injury and death are a constant concern. For Fiscal Year (FY) 2005, there were nearly 2.7 million injuries and over 43,000 fatalities on our nation's highways, of which over 5,000 were related to crashes involving large trucks.

My testimony today draws from our extensive body of work on the motor carrier safety program over the last several years. Since 2000, we have issued 24 reports and testimony statements on FMCSA initiatives. One particular focus has been the agency's operation of the system it uses to identify high-risk carriers—the Motor Carrier Safety Status Measurement System, or *SafeStat*. We have also reviewed commercial driver's licenses, and implementation of the Motor Carrier Safety Improvement Act of 1999 (MCSIA), as well as cross-border trucking issues related to the North American Free Trade Agreement (NAFTA).

Fraud against the motor carrier safety program has been an investigative priority for our office for the last 10 years, targeting such crimes as false driver logs, fraudulent commercial driver's licenses, and falsified drug testing. Since FY 1997, our criminal investigations in this area have resulted in 533 indictments, 464 convictions, and nearly \$41 million in fines, restitution, and civil recoveries.

FMCSA was created by Congress in 1999 to save lives and reduce injuries related to crashes involving large trucks. In carrying out its mission, FMCSA is involved in a wide range of activities, including issuing and enforcing rules and regulations in critical areas such as hours of service, sponsoring research, providing grants to the states for conducting roadside inspections and new-entrant safety audits, and monitoring state licensing of commercial drivers.

With over 700,000 registered motor carriers, it is essential to examine ways to better target FMCSA's resources to those motor carriers presenting the greatest risk. Yet simply targeting the highest risk carriers will not be enough. To be effective in reducing crashes, FMCSA must combine its targeting efforts with effective review of high-risk motor carriers for compliance with safety regulations, followed by strong enforcement action as warranted.

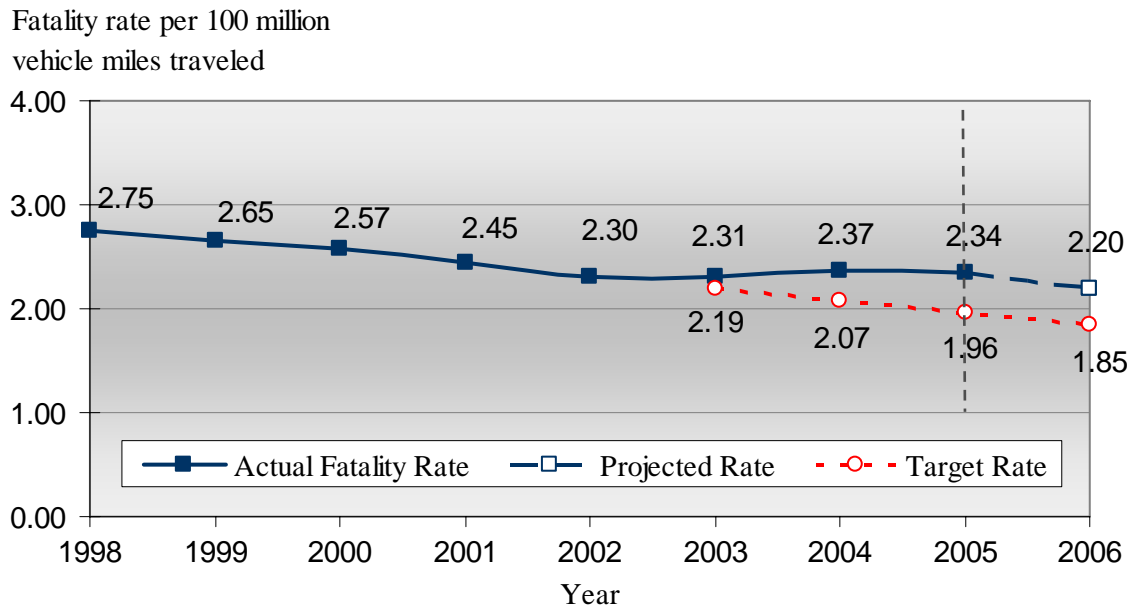
Today I will discuss our observations about FMCSA's progress as well as the challenges FMCSA faces in formulating programs to help it achieve its mission. Specifically:

1. FMCSA has made important progress in improving motor carrier safety and has plans for continued improvement, but further reductions in the fatality rate will be difficult to achieve.
2. FMCSA must obtain more complete information on motor carrier crashes to more effectively target the highest risk carriers for compliance reviews.
3. FMCSA must reassess and strengthen the compliance review process as vulnerabilities are identified.
4. FMCSA must ensure that enforcement actions are taken against repeat violators.

FMCSA Has Made Important Progress in Improving Motor Carrier Safety and Has Plans for Continued Improvement, But Further Reductions in the Fatality Rate Will Be Difficult to Achieve

Significant challenges remain as FMCSA continues its progress in improving motor carrier safety. As shown in Figure 1, the large-truck fatality rate has decreased about 15 percent from 1998 to 2005. The number of large-truck-related fatalities decreased from about 5,400 in 1998 to about 4,900 in 2002; FMCSA estimates just over 5,000 fatalities for 2006. Even during years with increased numbers of fatalities, the fatality rate per vehicle miles traveled has declined.

Figure 1. Fatality Rate for Large-Truck-Related Crashes



Source: FMCSA and OIG based on National Highway Traffic Safety Administration data.

While progress has been made in reducing the large-truck fatality rate, the Department will have difficulty attaining its goal set in the 2006 Strategic Plan. The plan set an ambitious goal to reduce the large-truck fatality rate to 1.65 fatalities per 100 million vehicle miles traveled by 2011. For 2006, the most recent year for which data are available, the preliminary fatality rate was 2.20 deaths per 100 million miles, well short of the goal of 1.85 established for that year. Had the 2006 target rate been achieved, 807 fewer lives would have been lost.

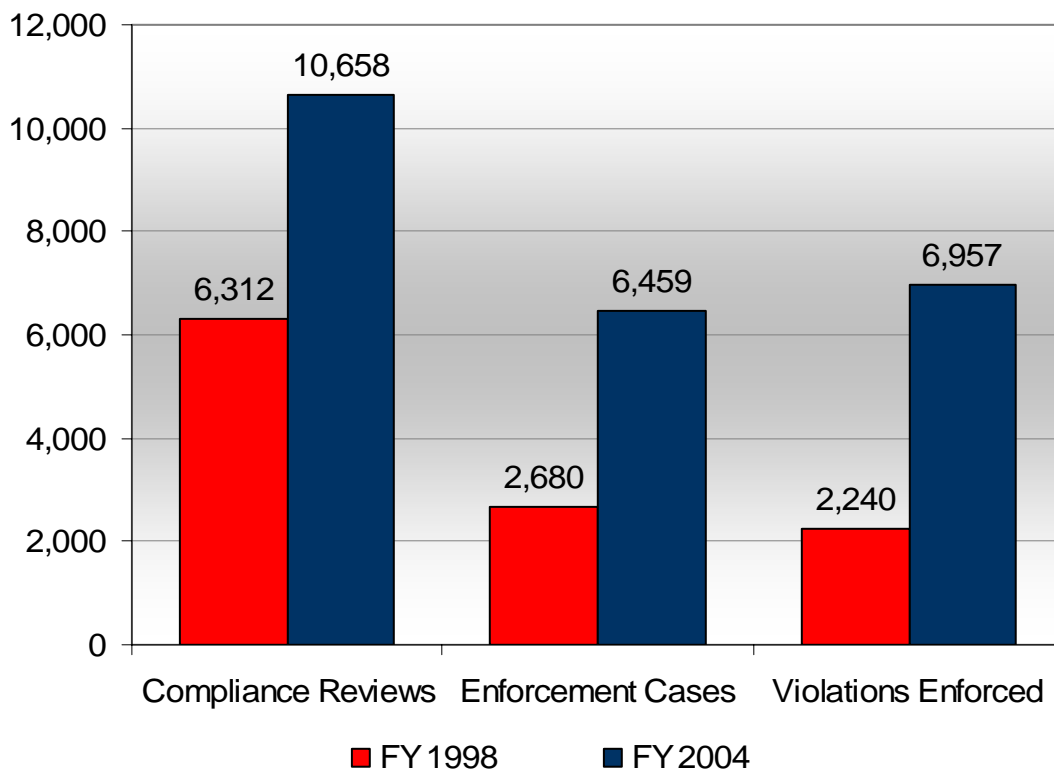
The Department believes that additional improvements will be increasingly more difficult to achieve. In its November 2006 Performance and Accountability Report, the Department stated that “gains have reached a plateau, and further reductions in the fatality rate are becoming harder and harder to attain.”¹

Our April 2006 audit of FMCSA’s implementation of MCSIA found that FMCSA had significantly improved oversight of motor carrier safety since our 1999 audit. FMCSA and the states had stepped up enforcement of the regulations through compliance reviews, inspections, and other enforcement activities. Enforcement actions include levying civil penalties, imposing out-of-service orders against specific trucks/drivers, and shutting down a motor carrier’s entire operation.

¹ *United States Department of Transportation Performance and Accountability Report, FY 2006, November 15, 2006.*

Since FY 1998, FMCSA has conducted more compliance reviews, opened more enforcement cases, and increased civil penalties for violations of safety regulations. The agency significantly increased its enforcement actions against serious motor carrier violations related to limits on driver hours of service, use of controlled substances and alcohol, vehicle inspection and maintenance, and driver qualifications. It also expanded its use of consent² and out-of-service orders for motor carriers with unsatisfactory ratings and those that fail to pay civil penalties. The value of civil penalties assessed increased from \$11 million in 1998 to \$29 million in 2004. As a result, the proportion of rated motor carriers with a rating of “satisfactory” increased from 44 percent in 1998 to 61 percent in 2004. In addition, the percentage of motor carriers rated “conditional” or “unsatisfactory” decreased from 46 percent in FY 1998 to 36 percent in FY 2004. Figure 2 provides details about the expansion of oversight and enforcement activities.

Figure 2. Increases in Oversight and Enforcement Activities^a



^a FY 2004 is the most recent year for which data confirmed through our audit work are available.

Source: FMCSA.

² FMCSA uses consent orders in a negotiated settlement agreement that commits the carrier to taking specific actions to achieve full compliance with Federal regulations.

Since 2004, FMCSA has been developing a new compliance and enforcement model to more effectively oversee the motor carrier industry and further reduce commercial motor vehicle crashes, fatalities, and injuries. This new model, which FMCSA plans to deploy in 2010, is expected to retool its systems for identifying and targeting high-risk motor carriers and for monitoring their safety performance. To implement this new model, FMCSA must define and develop data systems and software; draft necessary rulemakings, legislation, and policies; and conduct training. FMCSA believes the new model will allow the agency to contact more motor carriers and drivers, improve data to better identify high-risk carriers and drivers, and apply a wider range of interventions to correct high-risk behavior.

We have not audited FMCSA's plans for the new model, and are not in a position to discuss its specific details. However, based on our work on FMCSA's existing data systems, any data-driven model would benefit from improvement in the completeness of data.

FMCSA Must Obtain More Complete Information on Motor Carrier Crashes to More Effectively Target the Highest Risk Carriers for Compliance Reviews

FMCSA can improve its oversight of high-risk motor carriers by obtaining more complete information about crashes for use in targeting motor carrier reviews. Because FMCSA reviews less than 2 percent of active interstate motor carriers each year, it is important that it select for compliance review the carriers that pose the greatest safety risk.

FMCSA uses the Motor Carrier Safety Status Measurement System, or *SafeStat*, to rank and prioritize high-risk motor carriers for compliance review. *SafeStat* is an automated, data-driven system for ranking motor carriers using current safety performance data on crashes, inspections of trucks and drivers, results of compliance reviews, and enforcement actions recorded in FMCSA's database. FMCSA also uses *SafeStat* to generate warning letters advising carriers that continued performance problems may result in compliance reviews and potential state vehicle registration sanctions. *SafeStat* is also used to prioritize trucks and buses for roadside inspection.

Our February 2004 audit of *SafeStat* found significant weaknesses in the underlying data reported by states and motor carriers and with FMCSA's processes for correcting and disclosing data problems. We did, however, find that the system was an improvement over previous systems, and was useful for internal

targeting of FMCSA's enforcement efforts. Since 2004, FMCSA has taken action to improve reporting by the states, and more crashes are being reported. Fifteen state data quality reviews have been completed; FMCSA must ensure that the remaining ones are completed by the end of 2008, as promised.

Motor carriers are required to submit periodic updates to census data, including information on the number of drivers and vehicles used in *SafeStat* calculations. FMCSA cannot effectively rank the safety performance of motor carriers without complete and accurate census information. In the worst case, motor carriers with incorrect census records showing "zero" power units can have crashes, including fatalities, without it negatively impacting their safety ranking. Outdated census data have been identified in our audit work as an area of weakness. In response to a recommendation in our April 2006 report, FMCSA agreed to reduce the incidence of outdated census data by taking enforcement action against motor carriers that resist compliance with census-updating requirements.

At the request of Congressman Thomas Petri, we conducted a follow-up review on FMCSA's actions to improve the data relied upon in *SafeStat* and provided a letter and briefing with our results. Specifically, we noted improvements in the quality of the data and the creation of a system to correct certain data errors. However, significant numbers of nonfatal crashes are still not included in the calculation of risk because the crashes are not being reported to FMCSA by the states. The reasons that crashes are not reported vary by state and include the need for additional training for officials who prepare crash reports and problems with state crash reporting forms.

The quality of safety performance data is vital to ensuring that high-risk motor carriers are targeted for additional oversight, and crash data are the most important factor in the overall *SafeStat* score. Crash data are weighted twice as heavily as either the vehicle inspection history or the results of the most recent compliance review. Thus, missing crash data can seriously affect the ranking of a motor carrier, leading to either more or less oversight than is appropriate. For example, a high-risk carrier with many unreported nonfatal crashes might not be targeted for FMCSA's attention, even when it should be.

We do not know how many nonfatal crashes are missing from the FMCSA data, but independent assessments of crash data completeness for 15 states have shown that only 64 percent of the nonfatal large truck crashes that should have been reported were included in FMCSA's database. FMCSA's reviews of each state are intended to resolve this problem.

FMCSA Must Reassess and Strengthen the Compliance Review Process As Vulnerabilities Are Identified

FMCSA can enhance its compliance review process by periodically reassessing and strengthening its procedures when potential vulnerabilities are identified. We have not examined the compliance review process in detail, so we cannot provide an overall assessment at this time. However, a recent fatal crash points out how complex and difficult FMCSA's responsibilities can be, and that selecting a company for review may not always guarantee that safety problems are identified.

This past March, a tragic fatal crash occurred on the Washington, D.C., beltway (Interstate 495) involving a large truck operated by B.K. Trucking of New Jersey. B.K. Trucking is a small, interstate trucking corporation, which—before its recent shutdown—delivered bananas and pineapples up and down the East Coast. The driver of the truck had a suspended commercial driver's license when involved in the crash that killed a husband and father of two small children. The driver had previously received driving citations in six states, including citations for speeding, careless driving, inattentive driving, driving with defective brakes, and driving with a suspended license. B.K. Trucking had been selected for and subjected to a compliance review by FMCSA in February of this year based on its ranking in *SafeStat*. Nevertheless, the compliance review did not disclose the serious problems with this driver.

FMCSA's compliance review identified company drivers as well as drivers that the owner claimed were leased operators, operating under their own authority. The driver involved in the fatal crash was reported to be an owner-operator. Since compliance reviews procedures concentrate on company drivers, this driver was not included when license checks were conducted. As a result, this driver's poor driving record was not uncovered during the B.K. Trucking compliance review. B.K. Trucking has been ordered out of service. Both the company and the driver remain under investigation by FMCSA and our office and we have been informed that FMCSA is addressing lessons learned from this incident in its ongoing training of compliance review investigators.

We recognize that it is not practical for FMCSA to review every aspect of a motor carrier's operation during the limited time normally allotted to carry out its compliance review. However, we believe that FMCSA needs to continually reassess its compliance review process. This case, for example, shows that additional guidance may be needed on determining whether drivers are actually valid owner-operators or have only been classified by the carrier as owner-operators to avoid closer FMCSA scrutiny.

FMCSA should also consider expanding the compliance review to include sampling of all drivers, including owner-operators, to determine whether they hold a valid commercial driver's license.

FMCSA Must Ensure That Enforcement Actions Are Taken Against Repeat Violators

Another way that FMCSA can improve its oversight is to ensure that motor carriers are sanctioned when rules are repeatedly broken. Section 222 of MCSIA requires the Secretary of Transportation to assess the maximum civil penalty when a motor carrier or individual is found to have committed a pattern of violations.

FMCSA's key enforcement tool, the compliance review, examines a motor carrier's operations to determine whether the carrier and its trucks and drivers meet safety requirements. If violations are found, enforcement action may be initiated, such as the levying of fines. To be counted toward a pattern of violations, these enforced violations must be documented on a Notice of Claim, which is a legal document issued to the carrier to assess the fine.

To determine the amount of the fine, FMCSA uses its Uniform Fine Assessment software (UFA). The UFA considers nine statutorily-mandated factors in determining the amount of the fine, such as the nature and circumstances of the violation, the history of prior offenses, and the motor carrier's ability to pay the civil penalty. These factors usually limit the fine to an amount less than the maximum allowed by law. Because of the fine limit, although all violations are recorded during the compliance review, the penalties assessed may relate only to one or two of the most egregious violations.

Based on our work in 2006, we noted a loophole in FMCSA's enforcement policy that allowed hundreds of motor carriers to repeatedly violate significant safety rules without exposure to maximum penalties. The loophole comes into play when FMCSA identifies violations during a motor carrier's compliance review, but omits the violations from the Notice of Claim.

If a violation is not documented in the Notice of Claim, even if subsequent compliance reviews identify repeated violations of the same regulation, the earlier violations are not considered in establishing the pattern of violations necessary to invoke the maximum penalty provision. As a result, a motor carrier with limited ability to pay a fine could violate the same rule over and over, without running the risk of being penalized as a "repeat offender."

Our analysis of two categories of regulations showed that such repeat violations occurred frequently. Between September 2000 and October 2004, 533 motor carriers repeatedly violated either hours of service or drug and alcohol regulations,

and 67 repeatedly violated both. Yet because some violations were not documented in the enforcement claim, only 33 (6 percent) of the 533 motor carriers received the maximum penalty.

While it is necessary to consider a motor carrier's ability to pay a fine when taking enforcement action, this consideration should not be allowed to override the necessity for dealing appropriately with repeat violators. Closing this loophole will allow FMCSA to further deter violations of important safety regulations. FMCSA agreed to address this concern by June 2008, pending issuance of an upcoming Government Accountability Office (GAO) report on this issue. GAO is examining FMCSA actions against repeat offenders as part of a more comprehensive review of motor carrier oversight. FMCSA must act as soon as possible to implement changes once the GAO report is issued.

The attachment provides a list of our motor carrier safety reports and testimony and includes our work on implementation of the cross-border trucking provisions of NAFTA.

Mr. Chairman, this concludes my statement. I would be happy to answer any questions that you or other members of the Subcommittee may have at this time.

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ATTACHMENT

OFFICE OF INSPECTOR GENERAL WORK ON FEDERAL MOTOR CARRIER SAFETY ISSUES

OIG Memorandum, 2006-041, "Improvements in the Quality of the Underlying Data Used by the Motor Carrier Safety Status Measurement System (SafeStat)," June 19, 2007.

OIG Testimony, CC-2007-029, "Status of Safety Requirements for Cross-Border Trucking With Mexico Under NAFTA," March 13, 2007

OIG Testimony, CC-2007-026, "Status of Safety Requirements for Cross-Border Trucking With Mexico Under NAFTA," March 8, 2007

OIG Statement, "DOT Announcement of Cross-Border Truck Safety Pilot Plan, February 26, 2007

OIG Report No. MH-2006-046, "Significant Improvements in Motor Carrier Safety Since 1999 Act but Loopholes for Repeat Violators Need Closing," April 21, 2006

OIG Report No. MH-2006-037, "Federal Motor Carrier Safety Administration Oversight of the Commercial Driver's License Program," February 7, 2006

OIG Testimony, CC-2005-038, "Background Checks For Holders of Commercial Drivers Licenses With Hazardous Materials Endorsements," May 11, 2005

OIG Testimony, CC-2005-024, "Reauthorization of TEA-21 Safety Programs," April 5, 2005

OIG Report No. MH-2005-032, "Follow-up Audit of the Implementation of the North American Free trade Agreement's (NAFTA) Cross Border Trucking Provisions", January 3, 2005

OIG Report No. MH-2004-068, "Report on Investment Review Board Deliberations on the Motor Carrier Management Information System," June 29, 2004

OIG Memorandum, CC-2004-054, "Need to Establish a Legal Presence Requirement for Obtaining a Commercial Driver's License," June 4, 2004

OIG Report No. MH-2004-034, "Improvements Needed in the Motor Carrier Safety Status Measurement System," February 13, 2004

OIG Report No. MH-2003-041, "Follow-up Audit on the Implementation of Commercial Vehicle Safety Requirements at the U.S.-Mexico Border," May 16, 2003

OIG Memorandum, CC-2002-163, "Locations of Safety Inspection Sites for Mexican Trucks," September 6, 2002

OIG Testimony, CC-2002-179, "Implementation of Commercial Motor Carrier Safety Requirements at the U.S.-Mexico Border," June 27, 2002

OIG Report No. MH-2002-094, "Implementation of Commercial Vehicle Safety Requirements at the U.S.-Mexican Border," June 25, 2002

OIG Report No. MH-2002-093, "Improving the Testing and Licensing of Commercial Drivers," May 8, 2002

OIG Report No. CR-2002-073, "Review of Department Oversight for Transportation of Nuclear Waste," January 10, 2002

OIG Report No. MH-2001-096, "Motor Carrier Safety at the U.S.-Mexico Border," September 21, 2001

OIG Testimony, CC-2001-244, "Motor Carrier Safety at the U.S.-Mexico Border," July 18, 2001

OIG Report No. MH-2001-059, "Interim Report on Status of Implementing the North American Free Trade Agreement's Cross-Border Trucking Provisions," May 8, 2001

OIG Report No. PT-2001-017, "Top DOT Management Challenges Report," Surface Transportation Safety excerpt, January 18, 2001

OIG Report No. MH-2000-106, "Disqualifying Commercial Drivers," June 30, 2000

OIG Testimony, TR-2000-059, "Motor Carrier Safety," March 2, 2000

OIG Report No. TR- 2000-013, "Mexico-Domiciled Motor Carriers," November 4, 1999

OIG Testimony, TR-1999-134, "S.1501 The Motor Carrier Safety Improvement Act of 1999," September 29, 1999

OIG Testimony, TR-1999-091, "Motor Carrier Safety Program," April 27, 1999

OIG Report No. TR-1999-091, "Motor Carrier Safety Program," April 26, 1999

OIG Testimony, TR-1999-055, "Surface Transportation Safety/Motor Carrier Safety and Related Matters," February 23, 1999

OIG Report No. TR-1999-034, "Motor Carrier Safety Program for Commercial Trucks at the U.S. Border," December 28, 1998

OIG Report No. AS-FH-7-006, "Motor Carrier Safety Program," March 26, 1997

OIG reports, testimony, and correspondence can be accessed on the OIG website at www.oig.dot.gov .